IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 17696 of 2005

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Dated: 21st September 2005.

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Between:

M.Padmavathi

..... PETITIONER

AND

The Station House Officer, Gadwal Town Police Station, Mahaboobnagar District and another

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

W.P.NO.17696 OF 2005

ORAL ORDER:

(Per the Hon'ble Sri Justice M.Venkateswara Reddy)

This taken up writ petition is based on a telegram dated 6th August 2005 sent by the petitioner, alleging that her minor son by name Madhu was detained in Gadwal Town Police Station, Mahaboobnagar District, since 5th August 2005 and the police had beaten him indiscriminately. The petitioner has sought for the production of the alleged detenu.

On 17th August 2005, this Court on perusal of the counter filed after notice, directed the District Judge, Mahaboobnagar, to conduct an enquiry into the matter and submit his report. The report has been received. The learned District Judge, came to the conclusion, on examination of the alleged detenu. The alleged detenu was apprehended and arrested on 5th August 2005 and was detained till his production before the Magistrate concerned on 15th August 2005. The 1st respondent filed his objections to the said report stating that he was not afforded with any opportunity to cross-examine the detenu and the report of the District Judge is purely based on the statement of the detenu only, and the mother of the petitioner, who sent the telegram did not turn up before the District Judge.

We have perused the report of the District Judge and the objections of the 1st

respondent as well. It appears that the District Judge has come to the conclusion about the alleged detention for the afore-stated period on the basis of the sole statement of the detenu. Record reveals that when he was produced before the Magistrate concerned, the detenu has not complained about the alleged detention by the police. Thus, what is stated before the learned Magistrate differs from the statement given by the detenu before the District Judge. The detenu must have taken advantage of the fact that an enquiry was ordered by this Court and gave different version.

In the counter-affidavit it is categorically stated that the detenu is involved in a number of cases viz., Crime
No.65 of 2004 for the offence punishable under
Sections 457 and 380 of the Indian Penal Code, of Aiza Police Station, Crime No. 5 of 2005 under Sections 450 and 380 of the Indian Penal Code and Crime No. 77 of 2005 under Section 379 of the Indian Penal Code, of Gadwal Town Police Station. In order to ascertain the factual position, this Court directed the District Judge, Mahaboobnagar, to conduct the enquiry. In view of the fact that the version given before the District Judge differs from the one given before the Magistrate concerned, in the circumstances, no credence can be given to the statement of the detenu before the learned District Judge and relying on such version is fraught with the danger of miscarriage of justice. Hence, we choose to close the writ petition.

Accordingly, the writ petition is closed at the stage of admission.

J.Chelameswar, J

M.Venkateswara Reddy, J

21st September 2005

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